

(4) The foreign transferee shall file with the Vessel Transfer Officer a written copy of the appointment of the resident agent, which copy shall be fully endorsed by the resident agent stating that it accepts the appointment, that it will act thereunder and that it will notify the Vessel Transfer Officer in writing in the event it becomes disqualified from so acting by reason of any legal restrictions. Service of process or notice upon any officer, agent or employee of the resident agent at its permanent place of business shall constitute effective service on, or notice to, the foreign transferee.

(f) *Administrative provisions.* (1) The subsequent Transfer of ownership or registry of vessels that have been Transferred to foreign ownership or registry or both, or to Operation Under the Authority of a Foreign Country, that remain subject to Maritime Administration contractual control as set forth above, will be subject to substantially the same Maritime Administration policy considerations that governed the original Transfer, including such changes or modifications that have subsequently been made and continued in effect. Approval of these subsequent Transfers will be subject to the same terms and conditions governing the foreign Transfer at the time of the previous Transfer, as modified (if applicable).

(2) The authorization for all approved transactions, either by virtue of 46 App. U.S.C. 808, 835 and 839 or the Maritime Administration's Contract with the vessel owner, will be by notification in the form of a Transfer Order upon receipt of the executed Contract, the required bond or other surety, and other supporting documentation required by the Contract.

(3) In order that the Maritime Administration's records may be maintained on a current basis, the transferor and transferee of the vessel are required to notify the Vessel Transfer Officer of the date and place where the approved transaction was completed, and the name of the vessel, if changed. This information relating to the completion of the transaction and any change in name shall be furnished as soon as possible, but not later than 10 days after the same has occurred.

**§221.17 Sale of a documented vessel by order of a district court.**

(a) A Documented Vessel may be sold by order of a district court only to a Person eligible to own a Documented Vessel or to a Mortgagee of the vessel. Unless waived by the Maritime Administrator, a Person purchasing the vessel pursuant to court order or from a Mortgagee not eligible to document a vessel who purchased the vessel pursuant to a court order must document the vessel under chapter 121 of title 46, United States Code.

(b) A Person purchasing the vessel, pursuant to court order or from a Mortgagee not eligible to document a vessel who purchased the vessel pursuant to a court order, and wishing to obtain waiver of the documentation requirement must submit a request including the reason therefor to the Vessel Transfer Officer.

(c)(1) A Mortgagee not eligible to own a Documented Vessel shall not operate, or cause operation of, the vessel in commerce. Except as provided in paragraph (c)(2) of this section, the vessel may not be operated for any purpose without the prior written approval of the Maritime Administrator.

(2) The Maritime Administrator hereby grants approval for a Mortgagee not eligible to own a Documented Vessel to operate the vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking or berthing changes, but only under the command of a Citizen of the United States.

**§221.19 Possession or sale of vessels by mortgagees or trustees other than pursuant to court order.**

(a) A Mortgagee or a trustee of a preferred mortgage on a Documented Vessel that is not eligible to own a Documented Vessel does not require the express approval of the Maritime Administrator to take possession of the vessel in the event of default by the mortgagor other than by foreclosure pursuant to 46 U.S.C. 31329, if provided for in the mortgage or a related financing document, but in such event the vessel may not be operated, or caused to be operated, in commerce. The vessel may not, except as provided in paragraph (b) of this section, be operated for any other

purpose unless approved in writing by the Maritime Administrator, nor may the vessel be sold to a Noncitizen without the approval of the Maritime Administrator.

(b) The Maritime Administrator hereby grants approval for such Mortgagee or trustee to operate the vessel to the extent necessary for the immediate safety of the vessel, for its direct return to the United States or for its movement within the United States, or for repairs, drydocking or berthing changes, but only under the command of a Citizen of the United States.

(c) A Noncitizen Mortgagee that has brought a civil action *in rem* for enforcement of a preferred mortgage lien on a citizen-owned Documented Vessel pursuant to 46 U.S.C. 31325(b)(1) may petition the court pursuant to 46 U.S.C. 31325(e)(1) for appointment of a receiver and, if the receiver is Person eligible to own a Documented Vessel, to authorize the receiver to operate the mortgaged vessel on such terms and conditions as the court deems appropriate. If the receiver is not a Citizen of the United States, the vessel may not be operated in coastwise trade without prior written approval of the Maritime Administrator.

### Subpart C—Preferred Mortgages on Documented Vessels: Mortgagees and Trustees

#### § 221.21 Purpose.

The purpose of this subpart is to implement responsibilities of the Maritime Administrator with respect to approving Mortgagees and trustees of preferred mortgages on Documented Vessels pursuant to 46 U.S.C. 31322(a)(1)(D) (iii) and (vi) and 31328(a) (3) and (4).

#### § 221.23 Notice/approval of noncitizen mortgagees.

(a)(1) Notice is hereby given that pursuant to statute any Noncitizen may be a preferred Mortgagee of the following Documented Vessel types if the vessel has been operated exclusively and with *bona fides* for one or more of the following uses, under a Certificate of Documentation with an appropriate endorsement and no other, since initial documentation or renewal of its docu-

mentation following construction, conversion, or transfer from foreign registry, or, if it has not yet so operated, if the vessel has been designed and built and will be operated for one or more of the following uses:

- (i) A fishing vessel;
- (ii) A fish processing vessel;
- (iii) A fish tender vessel; and
- (iv) A pleasure vessel.

(2) A vessel of a type specified in paragraphs (a)(1) (i) through (iii) of this section will not be ineligible for the approval granted by this paragraph by reason of also holding or having held a Certificate of Documentation with a registry or coastwise endorsement, so long as any trading under that authority has been only incidental to the vessel's principal employment in the fisheries and directly related thereto.

(b) The Maritime Administrator hereby grants approval for any Noncitizen to be a preferred Mortgagee of the following Documented Vessel types, provided that Noncitizen is not subject, directly or indirectly, to control of any country identified in § 221.13(a)(4) of this part:

- (1) A vessel under 1,000 gross tons;
- (2) An oil spill response vessel documented pursuant to 46 U.S.C. 12106; and
- (3) A vessel operating on inland lakes or waters from which there is no navigable exit to an ocean for that vessel.

(c) The Maritime Administrator hereby grants approval to the granting or transfer of a preferred mortgage of a Documented Vessel to a Federally Insured Depository Institution, so long as it shall continue to remain a Federally Insured Depository Institution. This approval shall not apply to any such preferred mortgage proposed to be made or transferred during any period when the United States is at war or during any national emergency, the existence of which has invoked the provisions of section 37 of the Shipping Act, 1916, as amended (46 App. U.S.C. 835), or to a preferred mortgage proposed to be made or transferred to a citizen of any country when such transfer would be contrary to the foreign policy of the United States as declared by an executive department of the United States, nor shall it apply if that Federally Insured Depository Institution is subject,